

### **REMARKS**

This amendment is submitted in response to the nonfinal Office Action mailed on December 1, 2004. Claims 1-20 are pending in this application. In the Office Action, Claims 5-6, 9-10 and 13 are objected to, Claims 7, 11, 14 and 15 are rejected under 35 U.S.C. §102 and Claims 1-4, 8, 12 and 16 are rejected under 35 U.S.C. §103. In response Claims 1, 7-8 and 15-6 have been amended. This amendment does not add new matter. In view of the amendments and/or for the response set forth below, Applicant respectfully submits that the rejections should be withdrawn.

In the Office Action, the Patent Office requires Applicants to restrict the invention to one of four groups of invention: Group I (Claims 1-16) and Group II (Claims 17-20). Applicants elect, with traverse, Group I (Claims 1-16). Applicants reserve the right to file a divisional application to the non-elected claims.

In the Office Action, Claim 7 is rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 6,584,888 to Cortese ("*Cortese*"). Claims 11 and 14-15 are rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,921,168 to Nello ("*Nello*"). Applicant respectfully disagrees with and traverses these rejections for at least the reasons set forth below.

Applicant has amended independent Claim 7 to include the espresso machine being connected to a low voltage electric power supply, wherein a controller is provided for operating the heating element on demand when a beverage is to be dispensed and stops heating when the required temperature is reached. The amendment as discussed above is supported in the specification, for example, on page 1, line 33 to page 2, line 3 and page 5, lines 23-30. Contrary to Claim 7, *Cortese* fails to disclose or suggest a controller for operating the heating element on demand when a beverage is to be dispensed and that stops heating when the required temperature is reached. In fact, *Cortese* fails to disclose or suggest any type of on demand automated heating or temperature control device.

The instant Claim 11 recites, among other things, an espresso coffee machine comprises a brewing head that has a ring to allow manual ejection of used cartridges. Contrary to Claim 11, *Nello* fails to disclose or suggest a brewing head that has a ring to allow manual ejection of used

cartridges. Instead, *Nello* discloses a gasket (32) used for sealing the upper head (6). See, *Nello*, column 2, lines 20-28. Applicant respectfully disagrees with the Patent Office's assertion in the Office Action at page 3 that the gasket in *Nello* is equivalent to the ring in the present claim. The movable ring in the present claim is placed in the housing of the brewing head and serves to assist in removing used capsules from the brewing head. See, specification, page 5, lines 6-37. In contrast, the *Nello* gasket remains stationary during at all times and cannot be used for removing wafer (36) from the express machine.

Applicant has amended independent Claim 15 to include the espresso machine being connected to a low voltage electric power supply, wherein a controller is provided for operating the heating element on demand when a beverage is to be dispensed and stops heating when the required temperature is reached. The amendment as discussed above is supported in the specification, for example, on page 1, line 33 to page 2, line 3 and page 5, lines 23-30. Contrary to Claim 15, *Nello* fails to disclose or suggest a controller for operating the heating element on demand when a beverage is to be dispensed and that stops heating when the required temperature is reached. Indeed, *Nello* fails to disclose or suggest any type of on demand automated heating or temperature control device. Although *Nello* discloses a thermostat, the thermostat does not perform on demand heating operations like the controller of the present claim. Instead, the thermostat is only used to switch off the warning light (11), which was switched on when the espresso device was operated. See, *Nello*, column 2, lines 4-10.

For the reasons discussed above, Applicant respectfully submits that Claims 7, 11 and 15 and Claim 14 that depends from Claim 11 are novel, nonobvious and distinguishable from the cited reference. Accordingly, Applicant respectfully requests that the rejection of Claims 7, 11 and 14-15 under 35 U.S.C. §102(b) be withdrawn.

Claims 12 and 16 are rejected under 35 U.S.C. §103 as being unpatentable over *Nello* in view of U.S. Patent No. 5,551,331 to Pfeifer et al. ("*Pfeifer*"). Claim 8 is rejected under 35 U.S.C. §103 as being unpatentable over *Cortese* in view of *Pfeifer*. Applicant respectfully submits that the patentability of Claims 7, 11 and 15 renders moot the obviousness rejection of Claims 8, 12 and 16. In this regard, the cited art fails to teach or suggest the elements of Claims 8, 12 and 16 in combination with the novel elements of Claim 7, 11 and 15, respectively.

In the Office Action, Claims 1-4 are rejected under 35 U.S.C. §103 as being unpatentable over *Cortese* in view of *Pfeifer*. Applicant believes this rejection is improper and respectfully traverses for at least the reasons set forth below.

Applicant has amended independent Claim 1 to include the espresso machine being connected to a low voltage electric power supply, wherein the heating of the heating element is switched off or works at reduced power when the pump is running and wherein power is further saved in that the heating element operates only on demand when a beverage is to be dispensed and stops heating when the required temperature is reached. The amendment as discussed above is supported in the specification, for example, on page 1, line 33 to page 2, line 3 and page 5, lines 23-30. As discussed previously, *Cortese* fails to disclose or suggest any type of on demand automated heating or temperature control device for an espresso machine being connected to a low voltage electric power supply regardless of whether the pump is running or not.

*Pfeifer* also fails to disclose or suggest an espresso machine being connected to a low voltage electric power supply, wherein the heating of the heating element is switched off or works at reduced power when the pump is running and wherein power is further saved in that the heating element operates only on demand when a beverage is to be dispensed and stops heating when the required temperature is reached. In fact, *Pfeifer* teaches away from the claimed invention. In the present invention, the power can be saved, in part, by switching the heater on when the beverage is to be dispensed and by switching the heater off when the required temperature is reached. A controller in the coffee machine operates this temperature control. This control of temperature avoids drawing current on the electrical battery (e.g. of a car) when power is no longer required for heating the fluid. This electric power management is important to provide a machine that can deliver sufficient water pressure for brewing the coffee after water has been heated to the required temperature. In *Pfeifer*, the water must be maintained in the boiler at a constant temperature by a primary heater coil (26), which is not a problem when the coffee machine is plugged into the electrical network of a house. See, *Pfeifer*, column 3, lines 21-50. However, with a low voltage source such as one from a car, the machine of *Pfeifer* would result in a rapid drop of power after several minutes due to water heating and an insufficient level of instant power required for running the pump at the required pressure for brewing a

quality cup of espresso. Further, the switch (64) recited by the Office Action at page 4 relates to the secondary heater coil (46) and has no effect on the primary heater coil which is activated whenever power is supplied to the machine. See, *Pfeifer*, column 3, lines 43-45. Consequently, in *Pfeifer* the primary heater coil and the pump are fully active and operating at the same time, which teaches away from the present claims. As a result of the above discussion, the combination of *Cortese* in view of *Pfeifer* does not teach, suggest, or even disclose the claimed invention, and thus, fails to render the claimed subject matter obvious for at least these reasons.

For the reasons discussed above, Applicant respectfully submits that Claim 1 and Claims 2-4 that depend from Claim 1 are novel, nonobvious and distinguishable from the cited references. Accordingly, Applicant respectfully requests that the obviousness rejections with respect to Claims 1-4 be reconsidered and the rejections be withdrawn.

Claims 5-6, 9-10 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, Applicants respectfully submit that the patentability of Claims 1, 7 and 11 renders moot the objections of Claims 5-6, 9-10 and 13. In this regard, the cited art fails to teach or suggest the elements of Claims 5-6, 9-10 and 13 in combination with the novel elements of Claims 1, 7 and 11.

For the foregoing reasons, Applicant respectfully requests reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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